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BEFORE THE SEATTLE CITY COUNCIL

In the Matter of the Application of)
SEATTLE CHILDREN'S HOSPITAL) No. CF 308884
For approval of a Major Institution Master Plan) SEATTLE CHILDREN'S
RESPONSE TO APPEALS
_____)

I. INTRODUCTION

The Hearing Examiner reached two uncontested conclusions in this matter that should serve as the compass for the City Council in sorting out the conflicting claims by the appellants. First, she said there is no doubt as to Seattle Children's Hospital's ("Children's") extraordinary public benefits:

There is no question raised concerning the public benefits that Children's provides and will provide in the future. The record includes a substantial amount of information about Children's exceptional work.

Conclusion 2 (emphasis added).¹

Second, she stated unequivocally that Children's has demonstrated the medical need for expansion:

¹ General references to "findings" or "conclusions" are references to these sections of the City Hearing Examiner's Findings and Recommendation on the Children's MIMP, dated August 11, 2009.

1 *Children's has shown a projected statewide need for*
2 *specialized pediatric care over the next 20 years sufficient to*
3 *support the development area being requested in the*
 proposed MIMP. The evidence in the record does not show
 that other providers will likely fill the need.

4 Conclusion 6 (emphasis added).

5 These conclusions address issues that are central to the purposes and intent of the City's
6 Major Institution Code.

7 Denial of Children's Master Plan would wreak irreparable havoc for the health of
8 the growing number of children expected to require Children's services in the coming
9 years. It would also represent a horrible signal to the other major institutions in this city
10 that their future growth may be in jeopardy too. Denial would be contrary to the spirit of
11 the City's major institution code and policies which, since their adoption in 1983, have
12 stood for the proposition that the City will accommodate the growth of its major
13 institutions as long as such institutions manage such growth in accordance with master
14 planning that minimizes the adverse impacts of its growth on adjacent neighborhoods. To
15 the degree reasonably practicable, and consistent with its mission to provide specialized
16 pediatric care for all those children who require it, Children's has done this.

17 The City Council is not bound by the Examiner's recommendation. The City Code
18 calls for the Council to make its own independent decision on MUP Type IV land use
19 decisions such as Children's proposed Master Plan. It must review the record, consider the
20 applicable Major Institution Code provisions and make its own findings and conclusions.
21 SMC 23.76.056.A and B. There is no other City decision-maker. In this case, the
22 Examiner as well as the Citizens Advisory Committee and the Director of the Department
23 of Planning and Development are only authorized to make recommendations.

1 It is the elected City Council who is vested with the ultimate duty to interpret the
2 purposes and intent of the Major Institution Code. The City Council must address the core
3 policy questions inherent in this decision, such as whether the proposed Master Plan
4 permits appropriate institutional growth and minimizes adverse impacts associated with its
5 development (SMC 23.69.002, Purpose A), balances Children's ability to change and the
6 public benefit derived from such change with the need to protect the liability and vitality of
7 adjacent neighborhoods (Purpose B), encourages the concentration of major institution
8 development on existing campuses (Purpose C), provides for the coordinated growth of
9 Children's (Purpose D), discourages the expansion of major institution boundaries
10 (Purpose E), includes significant community involvement and a citizens advisory
11 committee in the development of the Master Plan (Purpose F), and accommodates
12 Children's changing needs and provides flexibility for development (Purpose H).

13 The Major Institution Code recognizes that major institutions, such as Children's,
14 that were existing at the time of the Code's adoption in 1983 required greater latitude than
15 new major institutions that might come along later. One of the purposes of the Code is to
16 "*locate new institutions* in areas where such activities are compatible with the
17 surrounding land uses and where the impacts associated with existing and future
18 development can be appropriately mitigated." SMC 23.69.002.G (emphasis added).

19 In an admission of uncertainty as to her recommendation of denial, the Examiner
20 prudently recommended a set of approval conditions "if the Council decides to approve the
21 Master Plan." These approval conditions largely coincide with the conditions
22 recommended by the Citizens Advisory Committee ("CAC"), the Director of the
23 Department of Planning and Development ("DPD"), and concurred in by Children's. Of

1 the 43 conditions recommended by the Examiner, Children's identified only three with
2 which it has any substantive disagreement.²

3 We believe that the City Council's attention should be focused not on *whether*
4 Children's Master Plan should be approved, but on *which conditions* of approval are
5 appropriate. The "opposing" appellants in this matter have directed their full attention to
6 the approval conditions, objecting to key conditions recommended by the Examiner, the
7 DPD and the CAC. For convenience, the cover letter and "List of Recommendations," by
8 the CAC majority are attached as Response Attachment A (from Ex. 8).

9 In their four appeals, the opposing appellants have repeated yet again the same
10 unreasonable and crippling conditions that were offered by the Laurelhurst Community
11 Club ("LCC") to the CAC, to DPD and to the Hearing Examiner, where they were
12 considered fully, then ultimately rejected by each. Children's is asking the City Council to
13 reject these same conditions again and approve Children's Master Plan with a set of
14 conditions that represent a consensus among the recommendations made by the CAC, DPD
15 and the Examiner.

16 This memorandum is Children's response to the appeals filed with the City Council
17 on August 25, 2009, by the following entities:

- 18 • Laurelhurst Community Club
- 19 • Seattle Community Council Federation
- 20 • Hawthorne Hills Community Council
- 21 • Seattle Displacement Coalition and Interfaith Task Force on Homelessness

22
23 ² See the discussion of Conditions 1, 2 and 6 in Children's Appeal, pp. 21-24. Children's
also asked for clarification of three other conditions to make them consistent with the
record: Conditions 8, 18 and 22.

There is considerable overlap in these appeals. The same changes in the conditions of approval are proposed. The issues raised are illustrated by the following matrix:

Issues	LCC	Seattle CC Federation	Hawthorne Hills ³	Displacement Coalition
Reduction of Square Footage	X	X	X	
Maximum 105' Height	X	X	X	
No Hartmann	X	X	X	
No access from 40th Ave. NE	X	X		
Underground the SW Garage	X			
Replacement Housing	X			X

Children's response is organized to address each of these six issues raised.

II. RESPONSE TO APPEALS

ISSUE #1: SHOULD APPROVAL CONDITION 1 BE CHANGED TO ALLOW ONLY 654,000 GROSS SQUARE FEET?

Laurelhurst Community Club, Seattle Community Council Federation, and Hawthorne Hills⁴ take exception to Hearing Examiner Condition 1, which would allow an additional 1,500,000 square feet of development in the proposed Master Plan (i.e., total campus development of 2,400,000). LCC asks that development under Children's Master Plan be limited to 654,000 additional square feet, a limitation which would be fatal to

³ Hawthorne Hills also raises the issue of transportation mitigation, without providing any specifics. Appeal at 2. Transportation mitigation is addressed by Children's in its Appeal (pp. 13-15, 29-30).

⁴ The Seattle Community Council Federation's appeal and the Hawthorne Hills' appeal should be viewed as extensions of LCC's appeal. The Federation's prior comments on the draft EIS, to the CAC, to the Hearing Examiner, and now to the Council, have tracked virtually verbatim LCC's comments. As the Federation explains in its appeal, "For more detailed explanations and furtherance of our appeal on these key points, *we defer to* and adopt the submission of the Laurelhurst Community Club," at p. 3 (emphasis supplied). Hawthorne Hills is in a similar supportive position: "HHCC supports the conditions recommended by the Laurelhurst Community Club," at p.2.

1 Children's Master Plan.⁵ The City Council should incorporate the Examiner's proposed
2 Condition 1 and approve Children's Master Plan for the requested 1,500,000 additional
3 developable square feet for a number of compelling reasons.

4 **A. Children's Has Demonstrated the Need for 1.5 Million**
5 **Additional Square Feet and 350 New Beds and the Examiner**
6 **Has Affirmed Such Need.**

7 Children's has provided a wealth of data and analysis to demonstrate its need for
8 additional beds and the additional hospital space to support such beds. *See* Testimony of
9 Dr. Hansen (March 3, 2009), Dr. Neff (March 5, 2009), Dr. King (Ex. 72), and Jody
10 Carona (March 5, 2009); also Exs. 68, 70-79, 108. As far as we know, no other major
11 medical institution has provided such a detailed and transparent analysis of hospital "use
12 rates" as part of its MIMP application. These projections of need are based upon the past
13 ten years of Children's hospital admissions and discharges. This data is undisputed.

14 The Hearing Examiner agreed that Children's has demonstrated the need for its
15 expansion:

16 Children's has shown a projected statewide need for
17 specialized pediatric care over the next 20 years sufficient to
18 support the development area being requested in the
19 proposed MIMP.

20 Conclusion 6.

21 The Examiner's conclusions with respect to the need for expansion echo the conclusions of
22 DPD ("The Director [of DPD] advises that Children's has shown a credible need for the
23 requested expansion," Finding 31) and the CAC ("The CAC determined to accept

⁵ LCC's currently recommended limitation on square footage in their Appeal is even lower than the 700-750,000 square foot limits they have advocated previously, *see, e.g.*, Ex. 21, p. 6.

1 Children's projections of need with the understanding that the issue would be thoroughly
2 vetted during the state certificate of need process," Finding 45).

3 **B. Appellants Have Waived Any Challenge to the Examiner's Core**
4 **Findings and Conclusions on Need.**

5 Neither LCC nor the other appellants in opposition to Children's have timely
6 challenged the Examiner's Findings or Conclusions with respect to need. Findings 29
7 through 45 set forth numerous (although not all) facts supporting the need for Children's
8 requested square footage and beds. For example:

- 9 • "Children's proposed MIMP is intended to allow Children's to fulfill its
10 mission in a manner consistent with its 2006 strategic plan," Finding 32.
- 11 • "In 2007 and 2008, [Children's] experienced average 'midnight occupancy
12 levels' above the targets recommended by the Washington State Department of
13 Health," Finding 34.
- 14 • "Children's has projected the following total unmet bed need, in single bed
15 rooms, for specialized pediatric care, including psychiatric care . . . 600 beds,"
16 Finding 35.
- 17 • "There is no question raised concerning the public benefits that Children's
18 provides and will provide in the future," Conclusion 2.
- 19 • "Children's has shown a projected statewide need for specialized pediatric care
20 over the next 20 years sufficient to support the development area being
21 requested in the proposed MIMP," Conclusion 6.

1 These unchallenged findings and conclusions by the Examiner fully support her
2 recommended Condition 1, which allows Children's "total development on the expanded
3 campus to a total of 2.4 million gross square feet, excluding parking."⁶

4 **C. Comparisons of the Size of the Current Master Plan with the**
5 **1994 Master Plan Are Misplaced.**

6 LCC erroneously compares the size of Children's requested Master Plan with
7 Children's existing facilities and the 1994 Master Plan.⁷ This kind of simplistic attack
8 ignores the realities of pediatric health care in Seattle and the region and would reduce the
9 complexities of major institution master planning to the recitation of multiples and ratios
10 that are unrelated to medical need. Children's has explained the reasons for the substantial
11 variance between the capacity of the existing campus versus the capacity that is needed
12 now and will be needed in the future. The growth in pediatric health care need requires
13 that Children's both "catch up" to meet existing unmet need and that it prepare to meet a
14 higher rate of growth in future bed need. The reasons for this are summarized in the
15 discussion below.

16 **The 1994 Master Plan Turned Out to Be Only a 12-Year Plan.** The 1994
17 Master Plan was supposed to be a "15-year Plan." *See* Ord. 117319, Finding 21.
18 Children's initiated its prior Master Plan process in 1991. *Ibid*, Finding 15. The City
19 Council approved the prior Master Plan in the fall of 1994. By 2006, Children's had either
20 built or designed and obtained Master Use Permits for all of the 262,630 square feet of

21 ⁶ Children's current MIMP authorizes approximately 900,000 square feet; with the
22 additional 1.5 million gross square feet requested with this MIMP application, the total
23 development allowed would be 2.4 million square feet.

⁷ "In other words, the proposed 'expansion' by itself would be larger than the existing
hospital facility and would nearly triple the facility's overall size," LCC Appeal at 11.
"1.5 million new square feet is six times the amount of development that was approved in
Children's last master plan in 1994," LCC Appeal at 12.

allowable new development. Thus, the 1994 Plan only met Children's needs for a 12-year period.⁸

Some of the Proposed Master Plan is Necessary to Catch Up. As a result of the 1994 Master Plan, which turned out to have too little developable space for even a 15-year time period, Children's currently proposed Master Plan includes a substantial amount of "catch up" capacity. This catch-up capacity is needed in at least three major areas:

First, 53 of Children's 250 beds are in *double rooms*, a condition that no longer meets the best standards of pediatric hospital care – 53 new single bed rooms must be built just to correct this anomaly and other existing bed units require updating to new bed standards (Benfield Testimony, March 4, 2009);

Second, Children's existing 250 beds are woefully short of the *current bed need*; occupancy rates have consistently exceeded levels considered desirable, and Children's has recently been forced to turn children away when the existing beds are full and there is no more room to safely care for them (Hansen Testimony, March 3, 2009; Carona Testimony, March 5, 2009; Ex. 68-69);

Third, the increase in necessary medical equipment, the therapeutic need to accommodate families, and other demands of pediatric care have increased the amount of hospital space required to accommodate each patient, resulting in a need for 4,000 square feet of hospital space per inpatient bed (Benfield Testimony, March 4, 2009; Ex. 68);

⁸ Children's received a MUP for the expansion of its Emergency Department in the F-Wing of the old hospital (Project 2206214). This would have used up the last 50,000 square feet of the 1994 Master Plan authorization. This project became the victim of the MIMP process. When Children's undertook its strategic planning in 2006, the ED project was suspended so that it could be integrated with the planning for the next Master Plan. The ED expansion is now proposed as part of Phase 1 of the new Master Plan.

1 Fourth, there is a serious shortage of beds for children with serious psychiatric
2 problems, which are often coupled with other medical problems (e.g., kids with suicidal
3 tendencies and potentially fatal eating disorders) – this shortage exists in the Puget Sound
4 area and the entire state (Washington ranks 51st out of the 50 states and the District of
5 Columbia for psychiatric inpatient beds, Ex. 72).

6 **Future Bed Needs Are Increasing at a Faster Rate.** Dr. John Neff, the former
7 Medical Director of Children's, testified before the Hearing Examiner as to his research
8 regarding the evolution in the kinds of conditions treated at Children's. As Dr. Neff
9 explained, the miracles of improved medical technology have allowed Children's to save
10 kids who only a decade ago may have died. This success has produced a sizeable
11 population of children with long-term chronic conditions that require substantially more
12 hospital days per year than the general population, e.g., children with Type 1 diabetes,
13 metabolic disorders, Down Syndrome, other chromosomal disorders, sickle cell disorders,
14 acquired or congenital quadriplegia or paraplegia, cerebral palsy, Cystic Fibrosis, Muscular
15 Dystrophy, and other technology-dependent children. *See* Testimony of Dr. Neff,
16 March 5, 2009, and Ex. 71.

17 **Future Projection of Need Is Based on Actual Historical Experience.** In its
18 proposed conditions, LCC toys with bed need and square footage as if it were something
19 divorced from the reality of hospital care that is necessary for children. The bed need
20 projections relied upon by Children's are based upon the past ten years of actual hospital
21 and population data. In accordance with prescribed State Department of Health
22 methodologies, this data determines the "use rates" (or hospital days per 1,000 population)
23 for the pediatric population that Children's serves. *See* Ex. 75, p. 6. This ten years of

1 actual historic experience has been projected forward to obtain the estimate of future need.
2 Children's inpatient days per year have "increased dramatically" in the period 1999-2008.
3 Ex. 70, at 11. In the first nine months of 2008 (the latest data available at the time of the
4 March 2009 hearing), for example, Children's hospital use days have increased by 11%
5 over the same period in 2007. Ex. 75, at 12.

6 **D. There Are Independent State Controls on Bed Need.**

7 It is ironic that neither the City nor the State requires a showing of need for the
8 construction of new retail shopping center space, office buildings, or fast-food restaurants.
9 All of these non-essential uses exist and have been expanding in the areas near Children's,
10 e.g., University Village. Yet, for the one use that *is* regulated as to need by the state, the
11 opponents want the City Council to defy state law, defy the demonstrated need, and
12 impose an arbitrary size limit on Children's future growth.

13 It is Children's position that the City of Seattle is not authorized under state law to
14 decide what the bed need is for Children's or for any other hospital within the City of
15 Seattle. That function has been assigned by the State Legislature to the State Department
16 of Health under RCW 70.38.105 ("The department [of health] is authorized and directed to
17 implement the certificate of need program in this state pursuant to the provisions of this
18 chapter.").

19 In this respect, we believe that the City's Major Institution Code is consistent with
20 state law. "Accommodation of need" is one of the core purposes of the Code:

21 The purpose of this chapter is to regulate Seattle's major
22 educational and medical institutions in order to:

23 H. *Accommodate the changing needs of major institutions,*
provide flexibility for development and encourage a high

1 quality environment through modification of use restrictions
2 and parking requirements of the underlying zoning.

3 SMC 23.69.002.H (emphasis supplied).

4 The CAC has recommended a set of monitoring conditions relating to need that
5 Children's has accepted and agreed to. *See* CAC Recommendation 2, Ex. 8. This
6 Recommendation, which provides for phase by phase monitoring of need, has been
7 endorsed by the Examiner (*see* Conclusion 7) and her recommended Conditions should be
8 incorporated by the Council in its approval of Children's Master Plan:

9 Prior to issuance of any MUP for any project under Phases 2,
10 3 and 4 of the Master Plan, Children's shall provide
11 documentation to the Director and the SAC clearly
12 demonstrating that the additional construction requested is
13 needed for patient care and directly related supporting uses
14 by Children's, including administrative support.

15 Examiner's Condition 17.

16 The CAC was also concerned that Children's proposed expansion be used for core
17 pediatric medical care uses, and the Examiner has made CAC Recommendation 2 (Ex. 8)
18 one of her recommended conditions:

19 No portion of any building on Children's extended campus
20 shall be rented or leased to third parties except those who are
21 providing pediatric medical care, or directly related
22 supporting uses, within the entire rented or leased space.
23 Exceptions may be allowed by the director for commercial
uses consistent with the underlying zoning that are located at
the pedestrian street level along Sand Point Way, or within
campus buildings where commercial/retail services that
serve the broader public are warranted.

24 Examiner's Condition 19. These conditions, together with the state certificate of need
25 requirements in RCW 70.38.105, fully address any concerns relating to the need for
26 Children's proposed facilities.

1 **ISSUE #2: SHOULD THE MAXIMUM HEIGHT OF CHILDREN'S**
2 **FACILITIES BE LIMITED TO 105 FEET?**

3 Some of the opponents object to the Examiner's recommended Condition 3, which
4 allows maximum heights of 140 and 125 feet:

5 In areas designated as MIO 160, the maximum height of
6 proposed structures shall not exceed 140 feet for the area
7 located north of an east-west line lying 400 feet north of the
8 extension of the current south property line of the Children's
9 campus, and 125 feet for the area located south of the same
10 line, all as shown on Exhibit 93.

11 Instead of the 140' and 125' height limits recommended in Examiner Condition 3, the
12 appellants would limit maximum heights to an arbitrary 105 limit. *See* LCC Appeal at 21-
13 22.

14 Children's believes that Examiner Condition 3 should be accepted by the Council
15 for the reasons cited in this response as well as for the reasons discussed in Children's
16 August 25 Appeal, Parts II.A.1 (urban village policies do not trump the Major Institution
17 Code), II.A.2 (the height transitions along 40th Avenue NE and NE 45th are fully
18 appropriate), and II.A.3 (Children's reduction of its maximum height to 140' and 125' is
19 consistent with the applicable rezone criteria).

20 **A. Height Limits of 140' and 125' Are Necessary to Accommodate**
21 **the Inpatient Bed Wings and Connect to the Existing Hospital.**

22 The bed wings to implement the Master Plan have not yet been designed, but there
23 are fixed parameters that affect the height, bulk and scale of such facilities. The maximum
height limits of 140' and 125' are necessary in order to accommodate the number of beds
required, locate every patient room on an exterior wall with a window as required by the
Department of Health, and allow clusters of 24, 36 or 48 beds per floor in order to maintain
the appropriate ratio between staff and patients. *See* Master Plan, Ex. 4, at 68. Most

1 important of all, the new bed wings must have floor-to-floor connections with the existing
2 surgery, critical care and other hospital facilities that are located uphill from the Laurelon
3 Terrace site. With a maximum 105' height limit, Children's would be unable to make such
4 floor-to-floor connections with the existing hospital.

5 The MIO Height Districts proposed for Children's campus have been carefully
6 tailored to accommodate up to 600 total beds and the associated support facilities in a
7 manner that integrates the new facilities with the existing facilities and allows the hospital
8 to function in a safe and efficient manner for medical personnel and patient.

9 **B. The Range of Heights to 140' and 125' Maximums Preserves**
10 **Open Space and Other Desirable Mitigation.**

11 In selecting the preferred Alternative 7R as the "platform" for Children's Master
12 Plan (this is the CAC's characterization in Recommendation 4), Children's is able to put its
13 new facilities on the lowest portions of its expanded campus. If the same facilities were
14 built on the highest portions of the existing 21.7 acre campus, they would be at an
15 elevation that is approximately 100 feet higher than what is proposed in this Master Plan.
16 See Ex. 81, Slide 8. A very small percentage of Children's campus is proposed for allowed
17 heights of 140' (12.3%) and 125' (7.43%). See Ex. 81, Slide 5. Even these percentages
18 overstate the potential height impacts because these are only "zones" below which actual
19 buildings would be designed.

20 If the maximum heights were lowered to 105', this would not only jeopardize the
21 functionality of the planned bed wings by disconnecting them from the core inpatient
22 wings, but it would likely increase the lot coverage and decrease the proposed open space
23 on the campus. Instead of the terraced development plan embodied in the proposed Master
Plan, it would likely push more bulk to the perimeters of the campus, including 40th

1 Avenue NE and NE 45th, two areas of concern for the Examiner. *See* Conclusions 19 and
2 2'0.

3 From both a functional and aesthetic standpoint, Children's, the CAC and DPD
4 concurred that the proposed height transitions, with MIO 37' and MIO 50' zones on the
5 perimeter and generous upper level setbacks for portions of buildings taller than 50', make
6 the most sense. With the upper level setbacks recommended by the CAC, DPD and the
7 Examiner (Condition 5), buildings greater than 50' in height would be 157 feet from
8 residences across 40th Avenue NE and 222 feet from residences across NE 45th. *See*
9 Ex. 4, Fig. 46, Attachment A to Children's Appeal. The height of new development is
10 moved inward but still remains on the lowest topography of the site.

11 **C. LCC's Objection to Examiner Condition 3 Are Misplaced.**

12 LCC's arguments in support of its requested 105 foot height limit are misleading
13 and based upon misinformation. *See* Appeal at 18-23. For starters, they consistently refer
14 to the recommended maximum height limit as "MIO 160'," ignoring for the most part the
15 fact that there will be no area of Children's campus with height limits of 160'.⁹ The CAC
16 recommended maximum height limits of 140' and 125' (*see* Recommendation 7) and
17 Children's has accepted those limits.

18 The recommended 105' limit is apparently based not on any impact analysis, but
19 rather on the coincidence that the highest MIO district granted to other major institutions
20 outside of an urban village to date is 105'. Appeal at 19 and 21. There is simply no legal
21 basis in the City's Major Institution Code for utilizing the Comprehensive Plan's "urban

22 _____
23 ⁹ For example, LCC alleges that Children's MIO heights "are more than five and six times
the 25-foot and 30-foot heights allowed in the single-family and low rise multifamily zones
that underlie Children's development sites" (Appeal at 19).

1 village” policies as a criterion for consideration of Children’s proposed Master Plan.
2 Children’s has already discussed this fallacious argument in its own Appeal (*see* pp. 8-10),
3 so has the DPD in its Appeal (p. 2).

4 There also is no evidence in the record that the heights allowed in the MIMPs for
5 any major institution located outside of an urban village were held to 105’ because of that
6 fact. Height is a factor of the need for useable and functional space. Many of those major
7 institutions with maximum height districts of 105’ or less are institutions with “first
8 generation” MIMPs that were approved in the 1990s before the urban village policies in
9 the Comprehensive Plan were even adopted, e.g., Northwest Hospital & Medical Center,
10 Ord. No. 115914, dated 11/4/1991; Swedish—Cherry Hill Campus (fka Providence), Ord.
11 No. 117238, dated 7/25/94; North Seattle Community College, Ord. No. 117462, dated
12 1/9/95. Children’s also has a “first generation” MIMP (1994) with a maximum MIO 90’
13 height district (that was conditioned down).

14 Hospitals typically require greater height. The City Council has approved heights
15 for other major institution hospitals in Seattle up to 240 feet. These include Swedish
16 Medical Center/First Hill, Harborview Medical Center, and Virginia Mason Medical
17 Center. *See* Ord. Nos. 121965 (Swedish First Hill, approved October 10, 2005), 120073
18 (Harborview, approved August 21, 2000), 117106 (Virginia Mason, approved April 25,
19 1994).

20 As to the actual impacts of Children’s proposed maximum heights of 140’ and
21 125’, the Examiner focused her attention on only two half-blocks where she thought that
22 the impacts from height would be significant for a total of 12 residences. These were the
23 half-block west of the campus across 40th Avenue NE (six residences) and the half block

1 south of the campus on NE 45th Street (six residences). *See* Conclusions 19-20 and 37-38.
2 Even these residences will face heights of only 37' and 50' for the structures closest to the
3 boundaries; any building greater than 50' will be at least 157' away from the residences
4 across NE 40th Avenue and 222' away from the residences across NE 45th. *See*
5 Attachments A and B to Children's Appeal.

6 LCC ignores the fact that Children's Master Plan would be developed at elevations
7 significantly lower than the existing campus. *See* Attachment C to Children's Appeal.
8 This across-the-board mitigation of heights was made possible because of Children's
9 willingness to pay approximately 2.7 times the market value of the Laurelon Terrace site in
10 order to accommodate the concerns by near neighborhoods with development on the
11 existing campus only (*see* Ex. 5 and 6, Alternatives 2 and 3). Hundreds and thousands of
12 nearby residences will not even see Children's new bed wings as a result of the mitigation
13 that is built into the use of the lower topography for development, the terracing down of
14 MIO heights from the interior portions of the campus, and the upper level setbacks.

15 **ISSUE #3: SHOULD CHILDREN'S MASTER PLAN INCLUDE THE**
16 **HARTMANN PROPERTY?**

17 Since 2000, Children's has owned the Hartmann property, which is a 1.7 acre site
18 that has been used as a one-story medical clinic and office since it was first developed in
19 1958. Ex. 6, at 2-6, 2-8. Children's proposes to develop a 150,000 square feet four-story
20 building on Hartmann with 225 underground parking spaces. Ex. 4, at 24, 25.

21 The Hartmann property is directly west of Children's Hospital across Sand Point
22 Way NE and contiguous (by City standards) to the Laurelon Terrace portions of the
23 expanded campus. *See, e.g.,* Ex. 4, Fig. 23; Ex. 9, at 58-59. The CAC, DPD and the
Hearing Examiner have all recommended that Children's Master Plan include the

1 Hartmann property, subject to the multiple mitigating conditions that have been developed
2 through the MIMP process and that are now embodied in the Examiner's recommended
3 Conditions of approval.

4 The City Council should include the Hartmann property in Children's Master Plan
5 because Hartmann provides an opportunity to mitigate the impacts of additional
6 development on the portions of the campus east of Sand Point Way NE and because
7 Hartmann provides the opportunity to fully connect Children's campus to transit on Sand
8 Point Way NE and to pedestrian/bicycle commuters using the Burke Gilman Trail.

9 **A. Inclusion of Hartmann Will Mitigate Impacts.**

10 In its EIS, DPD evaluated the impacts of Children's Master Plan with the Hartmann
11 property included (Alternative 7R) and without the Hartmann property included within
12 Children's Major Institution boundaries (Alternatives 6 and 8). *See* Ex. 5 and 6. The
13 Director ultimately recommended that the Hartmann property be included. *See* Ex. 9 at 22
14 ("Its redevelopment will enable the institution to better connect the hospital and Sand Point
15 Way to the Burke Gilman Trail, and to provide enhanced transit, shuttle, and drop-off areas
16 on both sides of Sand Point Way NE.").

17 The CAC also spent considerable time considering the issue of whether to include
18 the Hartmann site within Children's Master Plan (*see* Ex. 8, § V, Notes from CAC
19 Meetings No. 6 (1/22/08), § II.B; No. 7 (2/12/08), § IV.B; No. 14 (7/15/08), § II and
20 No. 19 (12/9/08), § IV). They also recommended that Hartmann's inclusion within
21 Children's MIO boundaries be subject to a list of nine additional conditions that Children's
22 has agreed to:

- 23
 - All of the sequoia trees in the existing grove be retained,

- A connection between Sand Point Way NE and the Burke Gilman Trail be provided,
- Setbacks be expanded,
- A landscape/green screen be provided at the north, south and west edge of the site,
- Sand Point Way frontage streetscape amenities be provided,
- Lot coverage be limited to 55%,
- The height of the west façade of the building be no higher than the average grade of the Burke Gilman Trail,
- A 40-foot setback be included along the north margin of the property, and
- The “mechanical hat” be restricted to no more than 25% of the roof area.

Recommendation 6, Ex. 8 (paraphrased). These CAC recommended conditions, which have also been recommended by the Examiner (Condition 9), impose ground level setbacks in all directions, lower the maximum height of the Hartmann development to 65 feet, and create upper level setbacks to match the grade of the Burke Gilman Trail, resulting in a maximum height for the Hartmann development that is at the same or lower height as allowed in the single-family zone west of the Burke Gilman Trail, all as illustrated in Response Attachment B (which is Ex. 8, Recommendation 6, Fig. 2).

B. The Hearing Examiner Concluded That Inclusion of the Hartmann Property Makes Sense.

The Examiner and the DPD found that the 65-foot height limit proposed for the Hartmann site would “provide a transition between the existing 100-foot condominium to the south and the low rise multifamily development to the north.” Finding 80. The Examiner also found that Hartmann is “separated from the single-family development to the west by a steep upward slope and the Burke Gilman Trail, which should provide adequate screening.” *Id.* None of the opponents objected to this finding.

1 The Examiner also concluded that if expansion of the MIO boundary includes the
2 Hartmann site, then “nearby residential neighborhoods are better protected . . . than they
3 would be by requiring Children’s to accommodate the entire projected need within its
4 existing boundaries” (Conclusion 8) and such inclusion will “further reduce the heights
5 required on the main expanded campus” (Conclusion 9). The Examiner also addressed the
6 issue of “leapfrogging” Sand Point Way and concluded that “the benefits to the
7 neighborhood of placing some of the proposed development at Hartmann outweigh the
8 risks.” Conclusion 12.

9 The opponents did not object to the Examiner’s Findings 46-54 relating to
10 Children’s boundary expansion to include Laurelon Terrace and the Hartmann sites.
11 Neither did they object to the Examiner’s Conclusions 13 (the inclusion of the CAC
12 conditions), 22 (the appropriateness of the height transitions at Hartmann), or 23 (CAC
13 proposed heights).

14 **C. LCC’s Arguments Ring Hollow.**

15 LCC argues that the expansion to Hartmann eliminates “1.7 acres of residentially-
16 zoned land.” Appeal at 24. The fact is that this land has never been used for residential
17 use since its development as a medical clinic in 1958. Virginia Mason, Children’s and
18 other medical service providers have continued to use the Hartmann property for medical
19 services since Children’s purchase of the property in 2000.

20 LCC argues that inclusion of the Hartmann property “would set a precedent for
21 future MIO boundary expansion in Laurelhurst and in other neighborhoods outside of urban
22 villages.” Appeal at 25. This is pure speculation and an argument that the Examiner
23 rejected:

1 [I]t seems highly unlikely that Children's would choose to
2 grow into the multifamily area north of Hartmann, and under
3 the existing Code, it cannot expand into the single-family
4 neighborhood west of the Burke Gilman Trail. Moreover,
5 the Council maintains significant control of future MIO
6 expansions.

7 Conclusion 12.

8 In the hearing before the Examiner, LCC argued that the Hartmann property is not
9 contiguous to the remainder of Children's campus. See Ex. 22, at 83. They imply the
10 same in their Appeal argument now. Appeal at 27. In fact, the Hartmann site is
11 contiguous to the rest of the campus. The applicable criteria for the expansion of major
12 institution boundaries address the issue directly:

13 Properties separated by only a street, alley or other public
14 right-of-way shall be considered contiguous.

15 SMC 23.34.124.B.2. The Hartmann property is directly across Sand Point Way NE from
16 the Laurelon Terrace portion of the expanded campus. The DPD Director also determined
17 that there was contiguity:

18 Sand Point Way NE passes directly between the Hartmann
19 site (Area A) and the northern portion of the Laurelon
20 Terrace site. There is a direct east-west adjacency between
21 Areas A and B across Sand Point Way NE.

22 Ex. 9, at 59.

23 **ISSUE #4: SHOULD VEHICLE ACCESS TO CHILDREN'S CAMPUS BE
PROHIBITED FROM 40TH AVENUE NE?**

Children's campus is currently served by a single vehicular access, Penny Drive,
which fronts on Sand Point Way NE. With the proposed increase in facilities on the
campus, the City's transportation consultant determined that at least two new access points
would be required. See Ex. 6, at 2-10. Until Children's secured the right to purchase the

1 Laurelon Terrace site, this would have required a new northern access to the campus from
2 NE 50th Street and a new southern access to the campus from NE 45th Street. *Id.*

3 With Alternative 7R, which moves the western perimeter of the main campus to
4 Sand Point Way NE and 40th Avenue NE, the City's transportation consultant determined
5 that Children's could optimally accommodate vehicular ingress and egress to the campus
6 with the existing Penny Drive access on Sand Point Way NE, plus an emergency access on
7 40th Avenue NE, and a general garage access from 40th Avenue NE. Gahnberg
8 Testimony, March 2, 2009; *see also* Ex. 6, at 3.10-7 through 11.

9 DPD and the Examiner endorsed this configuration with two access points on 40th
10 Avenue NE because it provides the least overall impact to local neighborhood traffic as
11 well as for emergency and general access to Children's campus. Two of the opposing
12 appellants want no vehicular access from 40th Avenue NE.¹⁰

13 **A. Prohibition of Access to Children's Campus From 40th Avenue**
14 **NE Would Increase, Not Decrease, Traffic Impacts.**

15 LCC argues that 40th Avenue NE is a "major route out of the neighborhood" and,
16 therefore, should be off limits to persons coming to Children's. Appeal at 30. Their
17 recommendation represents bad traffic management. This is another case where
18 implementation of the opponents' requested condition would increase, rather than
19 ameliorate, impacts on the neighborhood.

20 DPD and its traffic consultant looked at the LCC and CAC options in detail and
21 concluded that they would create undesirable traffic conditions on 40th Avenue NE and

22 ¹⁰ The CAC, in its only recommendation that was not concurred in by Children's and DPD,
23 recommended that there be only one access from 40th Avenue NE, "to serve either the
emergency room or general parking, but not both." Ex. 8, Recommendation 9. The CAC
also recommended that traffic leaving Children's Southwest Garage go north only on 40th
Avenue NE. The Hearing Examiner also rejected this recommendation.

1 push additional and unnecessary traffic impacts over to Sand Point Way NE. As
2 Mr. Gahnberg of Transpo explained to the Hearing Examiner, elimination of even one
3 access point from 40th Avenue NE would require a second access point on Sand Point
4 Way between the traffic signals at Penny Drive and 40th Avenue NE, which are already
5 very close to each other. He said that access to Children's campus from 40th Avenue NE
6 allows a natural distribution of traffic between those traveling to and from Children's from
7 the south (two-thirds of all users) and those traveling to and from the north (one-third of
8 users). This results in no queuing problems and in no level of service problems, for either
9 neighborhood pass-through traffic or for Children's traffic. Gahnberg Testimony,
10 March 2, 2009.

11 **B. The Hearing Examiner Recommended Access to the Campus**
12 **From 40th Avenue NE.**

13 The Hearing Examiner fully considered the concerns raised with respect to access
14 to Children's campus from 40th Avenue NE. *See Findings 95-100.* She concluded that the
15 proposed two access points to Children's campus from 40th Avenue NE are preferable to
16 establishing a second access point from Sand Point Way NE:

17 Although there is significant neighborhood concern about
18 congestion on 40th Avenue Northeast, the evidence in the
19 record shows that the two access points proposed for this
20 street will operate at LOS C or better, and that moving one of
the access points to Sand Point Way would degrade traffic
operations on that arterial. The CAC's suggestion to limit
access from 40th Avenue Northeast to one entrance should
not be included as a condition if the MIMP is approved.

21 Conclusion 26.

22 The proposed Master Plan works best for the neighborhood and for Children's if
23 there are three access points to the main campus: from Penny Drive on Sand Point Way

1 NE, and the two points of access from 40th Avenue NE. The prohibition on 40th Avenue
2 NE access recommended by LCC should be rejected.

3 **ISSUE #5: SHOULD THE SOUTHWEST PARKING GARAGE BE**
4 **PLACED UNDERGROUND?**

5 In Phase 2 of the proposed Master Plan, Children's has shown the "Southwest
6 Garage near the southern boundary of what is the Laurelon Terrace portion of the
7 expanded campus. *See* Ex. 4, Fig. 44. The Southwest Garage, which shows a capacity of
8 1,100 spaces, would have an above-ground height that is less than 37' above ground at the
9 southern edge and less than 50' above ground for the remainder. *See* Ex. 4, Fig. 39 (south
10 elevation from NE 45th Street, looking north; and west elevation, looking east).

11 LCC's discussion of this subject wanders. They say that "many hospitals in the
12 area have successfully constructed underground parking" (Appeal at 34). They ignore the
13 fact that the Southwest Garage is already shown with three of its six and one-half stories
14 underground. *See Response Attachment C* (Ex. 81, Slide 28). Then, after recommending
15 that the Southwest Garage be constructed underground, they suggest that Children's should
16 put a bed wing on top of the garage (Appeal at 34).¹¹ Hospital designers do not
17 recommend putting bed wings above garages because of security concerns, inefficiency of
18 parking space due to structural column placement, and increase in the cost of construction.
19 Children's has no bed wings above its parking garages now.

20 This recommended condition to underground the Southwest Garage should be
21 ignored. Whether the Southwest corner of the expanded campus is used for a parking

22 ¹¹ Alternative 8, which excluded the Hartmann property from the Master Plan boundaries,
23 would have moved the 150,000 square feet of development at Hartmann to this same
southwest corner of the campus. This would have required making this corner of the
campus part of the MIO-160' district. *See* FEIS, Ex. 6, Figure 2-4a.

1 garage or other hospital facilities, the inwardly terraced height, bulk and scale of this
2 corner is fixed in the Master Plan by the MI0-37' and MI0-50' height districts as well as
3 the required upper level setbacks. *See Attachments A and B* to Children's Appeal. In
4 addition, there are street level setbacks in the southwest corner of the campus which will
5 carry extensive landscaping on the south boundary and landscaping and streetscape
6 amenities on the west boundary. *See Attachment D* to Children's Appeal.

7 There is no need to underground the Southwest Garage and the Hearing Examiner
8 has properly not included such a requirement in her recommended set of approval
9 conditions.

10 **ISSUE #6: IS THE RECOMMENDED OFFICE OF HOUSING**
11 **AGREEMENT FOR REPLACEMENT HOUSING ADEQUATE?**

12 The Director of the Office of Housing has negotiated with Children's a
13 Memorandum of Agreement for replacement of the 136 Laurelon Terrace units that would
14 be displaced by Children's development on the Laurelon Terrace site. *See Ex. R-6*. She
15 explained in her testimony how and why this Agreement will result in 136 units of new
16 affordable housing in northeast Seattle. Testimony of Adrienne Quinn, July 14, 2009.

17 LCC, the Seattle Displacement Coalition, and the Interfaith Task Force on
18 Homelessness¹² object to the proposed Memorandum of Agreement, on the basis that they
19 do not believe the proposed Agreement will produce 136 new affordable housing units,
20 and on the basis that Children's should not get credit for its proposed \$600,000
21 contribution to Solid Ground's 52-unit transitional housing project at Magnuson.

22 _____
23 ¹² The Seattle Displacement Coalition and the Interfaith Task Force on Homelessness
brought a single appeal and, in this discussion, their appeal will sometimes be referred to in
the name of the Seattle Displacement Coalition.

1 The proposed Agreement is consistent with the provisions of the City Code
2 requiring replacement housing (SMC 23.34.124.B.7), consistent with the recommendations
3 of the CAC and DPD, and consistent with the Hearing Examiner's recommended
4 Conditions of approval.

5 **A. LCC Refuses to Acknowledge Basic Principles of Housing**
6 **Development.**

7 The Revised FEIS provided a range of comparable housing replacement costs for
8 the Laurelon Terrace units ranging from \$165,000 to \$235,000 per unit, including land.
9 R-6, at 3.8-12. Mr. Ferris, an expert in affordable housing development, projected
10 replacement costs for the Laurelon Terrace units of approximately \$230,000 per unit. *See*
11 Ex. R-12. The housing project developer for the replacement units will not be required to
12 put up the entire gross cost of the units in order to cause them to be built. The Office of
13 Housing is able to make affordable housing projects happen through payment of between
14 15 and 35 percent of total development costs. *See* Ex. R-6, at 3.8-13. The Director of the
15 Office of Housing testified, however, that a private housing developer would be able to
16 provide for replacement housing with a lower level of gap financing per unit. Quinn
17 Testimony, July 14, 2009. Mr. Ferris testified that, in today's housing market, an
18 affordable housing project with 136 units comparable in size to Laurelon Terrace for
19 renters earning at or less than median income, could be constructed, without public funds
20 and with a reasonable project return through an "equity contribution" of \$5 million by
21 Children's. *See* Ferris Testimony, July 14, 2009, and Ex. R-12, at 3.¹³

22 ¹³ The Memorandum of Agreement for Replacement Housing provides that \$600,000 will
23 be contributed to the Solid Ground Project at Magnuson. The other \$4.4 million will be
made available to potential housing developers by the City Office of Housing "through a
competitive funding round." *See* Ex. R-6, p. 4.

1 In the hearing before the Examiner, LCC took the ludicrous position that whatever
2 the gross cost is to construct replacement housing, that is the dollar amount Children's
3 should be required to pay in the proposed Agreement. In their Appeal, they say that the
4 Examiner's conclusions and conditions "allow Children's the fiction that 136 units of
5 demolished housing assessed at approximately \$32 million can be 'comparably replaced'
6 by paying \$5 million." Appeal at 35. The Displacement Coalition now parrots LCC's
7 contention, asserting that Children's must pay "\$270,400 per unit displaced." Appeal at 4.
8 This kind of rhetoric ignores the fundamentals of housing development.¹⁴ As explained in
9 the Revised FEIS, as well as in the testimony by the Director of the Office of Housing and
10 by housing development expert Hal Ferris, *every* housing development project—market
11 rate or affordable—is accomplished with financing. No housing developer fronts the entire
12 gross cost of development without borrowing. The project developer's burden is to
13 provide the equity contribution for that portion of the costs not met by financing. *See* R-6,
14 at 3.8-12 through -14; Quinn Testimony and Ferris Testimony, July 14, 2009.

15 **B. There Is No City Ban on Participation of Public Funds in a**
16 **Replacement Housing Project.**

17 The provision in the Seattle Code that governs replacement housing for major
18 institutions provides as follows:

19 New or expanded boundaries shall not be permitted where
20 they would result in the demolition of structures with
21 residential uses or change of use of those structures to non-
22 residential major institution uses *unless comparable*
replacement is proposed to maintain the housing stock of the
city.

23 SMC 23.34.124.B.7 (emphasis added).

¹⁴ LCC's witness, Carol Echanyer, admitted she had no background or expertise in housing development or housing finance. Echanyer Testimony of July 14, 2009.

1 Both LCC and the Displacement Coalition are saying that replacement housing to
2 meet the code's obligation cannot include the 52-unit Solid Ground project at Magnuson
3 Park because that project also includes public funding through the Office of Housing.
4 They are apparently seeking to disqualify the proposed \$600,000 contribution by
5 Children's to that project despite the fact that Solid Ground and the Office of Housing have
6 confirmed that Children's \$600,000 contribution was instrumental in enabling this project
7 to happen (construction is scheduled to commence this fall). *See* Ex. R-2, Letter from
8 Solid Ground to Examiner dated July 7 ("[W]ithout these funds, we would be facing the
9 risk of having to significantly delay construction."); Quinn Testimony, July 14, 2009.

10 Mr. Fox, testifying for the Displacement Coalition, could point to no specific
11 legislative history to support his contention that "replacement housing projects" cannot
12 include public funds in addition to major institution funds. Fox Testimony, July 15, 2009.
13 In fact, Mr. Fox recommended that, in the absence of any clear indication of the intent of
14 SMC 24.34.124.B.7 on this point, we should defer to the interpretation of the code by the
15 Office of Housing. Ms. Adrienne Quinn, Director of the Office of Housing, provided such
16 an interpretation to the Examiner, explaining that the Office of Housing has never
17 interpreted the major institution replacement housing provisions to disqualify housing
18 projects which include public funds; in fact, she stated that this provision should be
19 interpreted broadly to allow the greatest array of potential projects. Quinn Testimony,
20 July 14, 2009.

21 Mr. Peter Steinbrueck testified that the provisions of the 1994 replacement housing
22 provisions were never intended to be "formulaic." Instead, they were meant to be flexibly
23 applied, and it was expected that the Office of Housing would review and determine what

1 kind of replacement housing proposal satisfied the City's requirements. Steinbrueck
2 Testimony, July 15, 2009.

3 **C. The Examiner Has Recommended Approval of the**
4 **Memorandum of Agreement for Replacement Housing.**

5 The City Council's disqualification of Children's \$600,000 contribution to the
6 Solid Ground project would put that project in jeopardy. Children's committed to
7 contribute to the Solid Ground project because Solid Ground badly needed it and the
8 Office of Housing strongly recommended it. Quinn Testimony, July 14, 2009. Even
9 Mr. Fox admitted that the Solid Ground Project at Magnuson was meritorious and that
10 Solid Ground struggled to find sufficient contributions for this project. Fox Testimony,
11 July 15, 2009.

12 It is indeed ironic that the Displacement Coalition and its ally, Interfaith Task Force
13 on Homelessness, themselves champions of affordable housing, particularly for the lower
14 ranges of affordable housing, have taken a position that is not only opposed to the
15 expansion of a nonprofit hospital that provides uncompensated care for the children of
16 families unable to afford it, but that they would also jeopardize Solid Ground's transitional
17 housing project at Magnuson.

18 The Examiner properly chose not to follow LCC's and the Displacement
19 Coalition's skewed interpretations of the replacement housing obligation. Children's asks
20 that the Council adopt an approval condition that is substantially in the form of the
21 Examiner's recommended Condition 20.
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III. CONCLUSIONS

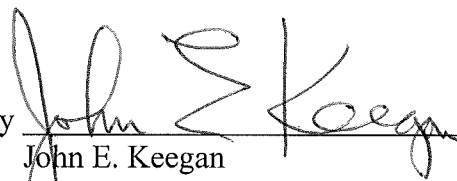
There is no question as to the substantial public benefits that Children's provides to this City and the region. There is also no credible doubt as to the need for the development area being requested by Children's.

Children's is asking the City Council to exercise its independent judgment regarding Children's compliance with the purposes and intent of the Major Institution Code. Acceptance of the opponents' proposed condition would jeopardize the functionality of the hospital and cripple Children's ability to meet its mission of providing specialized pediatric care to those who need it.

We ask the City Council to move forward expeditiously with a conditioned approval of Children's Master Plan. The hospital is full already. New beds are needed now.

DATED this 21st day of September, 2009.

Davis Wright Tremaine LLP
Attorneys for Seattle Children's Hospital

By 
John E. Keegan
WSBA #0279

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4 **CHILDREN'S HOSPITAL AND REGIONAL MEDICAL CENTER**
MAJOR INSTITUTIONS CITIZENS ADVISORY COMMITTEE

5 Seattle Children's Hospital /
Institutions Citizens Advisory
Committee

February 3, 2009

6 **Members**

7 Cheryl Kitchin
Dolores Prichard
Myriam Muller
8 Kim O Dales
Doug Hanafin
Catherine Hennings
9 Dr. Gina Trask
Karen Wolf
Michael S Omura
Wendy Paul
10 Yvette Moy
Robert Rosencrantz
Bob Lucas
11 Theresa Doherty
Shelley Hartnett

Hearing Examiner for the City of Seattle

Richard Conlin, President, Seattle City Council

Seattle Children's Hospital Citizen Advisory Committee Comments and Recommendations
Concerning the Final Major Institution Master Plan for Seattle Children's Hospital.

Dear Hearing Examiner and City Council,

In accordance with SMC 23.69, the Seattle Children's Hospital Major Institutions Program
Citizen's Advisory Committee (CAC) submits its comments and recommendations on the
Major Institution Master Plan (MIMP) for Seattle Children's Hospital as outlined in the body
of the report.

After holding a total of twenty six public meetings, and reviewing volumes of reports and
letters both from those favoring the adoption of the Final Major Institutions Master Plan for
Seattle Children's Hospital (Final Master Plan) and those opposing it, the CAC is pleased
to recommend that:

12 **Alternates**

13 Mike Wayte
Dr. Brice Semmens
Nicole Van Borkulo

**The Final Major Institutions Master Plan for Seattle Children's Hospital
should be adopted by the City of Seattle, as modified by the
recommendations listed in Section II of this report. This is identified as
Alternative 7R**

14 **Ex-Officio Members**

15 Steve Sheppard – DON
16 Scott Ringgold – DPD
17 Ruth Benfield – Seattle
18 Children's Hospital

The CAC directed its efforts to what the proposed expansion would look like and
particularly how the proposed development would fit with the surrounding neighborhoods.
This process proved difficult given the size of the proposed expansion. From its inception
the CAC, and others in the community have struggled to balance the scale of the
proposed development and mission of the institution with the goal of protecting the
livability and health of the surrounding neighborhoods.

19 The CAC has taken its task seriously. As a result its recommendations differ in certain
20 areas both from those contained in the Seattle Children's Hospital Final Master Plan and
21 from the Analysis, Recommendations and Determination of the Director of the Department
22 of Planning and Development (DPD Report). Early in the process it became clear that
23 there were disagreements within the community concerning the scale of development.
There is a high level of support in the community for the mission of Children's and the
specialized services it provides to children of the region. However, the hospital is already
large and has both a major presence and impact on the surrounding neighborhoods. The
proposal to expand this facility from 250 to approximately 600 beds,

- 3 -

Response Attachment A
(Ex. 8 at 4-6, 10-14)

and from 883,000 gross square feet to as much as 2,400,000 gross square feet caused concern among many in the community. Initial proposals to increase height on the campus from 90 feet to 240 feet caused similar concern. Some questioned the need for so much development or the prudence of locating most, if not all, of such specialized acute pediatric care at one location. As can be seen in a review of public testimony before the CAC, this disagreement continued through the process and others agreed with the hospital's expansion. Ultimately, after much careful deliberation, the CAC concurred with the proposed level of development put forward by Children's but with some very important conditions to ensure the livability of the surrounding neighborhoods.

The CAC's early comments were aimed at encouraging Children's to: 1) significantly reduce the height of the proposed development from 240 feet to below 160 ft and 2) consider an alternative that added less than one million square feet. To its credit, Seattle Children's Hospital responded with an alternative that reduced the proposed height to less than 160 feet. In part, the reduction in height was made possible by the decision of Children's to acquire the Laurelon Terrace Condominiums to the immediate west of the present Children's campus. However, Children's continues to request 1,500,000 new gross square feet of development for a total of 2,400,000 gross square feet of development authority as proposed in their Master Plan in order to meet the critical need for specialized acute pediatric care in our city, state, and region. This total square footage request is contained in the Final Master Plan as recommended by the CAC.

Both the Children's Master Plan and the DPD Director's Report, as forwarded to the Hearing Examiner appear to be in agreement. Both reports recommend a development that: 1) expands the boundaries of the Children's MIO to include both the Laurelon Terrace Condominium and the Hartmann properties; 2) authorizes a total of 2,400,000 gross square feet of development with a Floor Area Ratio of 1.9 in order to accommodate 500- 600 beds; 3) increases height from the present maximum MIO 90 to MIO 160 with an agreement to condition that height to a maximum of 140 feet; and 4) places additional emergency and patient parking access off of 40th Avenue NE.

The CAC's recommendations differ from both of these documents in the following ways:

- **Overall Scale of Development** - The CAC accepts, for long range planning purposes, Children's total projected 2,400,000 square feet predicated upon their projected bed need of a total of 600 beds. However, given the great disparity in the conclusions of a variety of experts in this field, the CAC has recommended:
 - o A reduced Floor Area Ratio (FAR)
 - o A phasing plan that includes conditions related to justification of need prior to progressing to future phases; and
 - o Restrictions on the leasing of space and/or location of any uses not directly related to pediatric care in any new space developed.

These topics are addressed in greater detail in the body of our recommendations.

- **Boundary Expansions** - The CAC recommends significant additional conditions on the proposed expansion to the Hartmann Site;
- **Height** - The CAC recommends further reductions in heights on the Laurelon Terrace Condominium Site, including reductions from MIO 160 to MIO 50 for portions of the site and further conditioning of heights within the remaining MIO 160 to no greater than 125 feet on the southern portion and 140 feet on the northern portion of the MIO 160; and,
- **Access** - The CAC recommends greater restriction of the use on 40th Avenue, NE with the location of only one new campus access point from this street.

Thank you for the opportunity to comment on this proposal. The CAC looks forward to our continued work with Seattle Children's Hospital, community members, and City of Seattle staff.

Sincerely

Karen Wolf, Chairperson
Seattle Children's Hospital
Major Institutions Citizen's Advisory Committee
Committee

Catherine Henning, Vice Chairperson
Seattle Children's Hospital
Major Institutions Citizen's Advisory
Committee

Members/Alternates, Seattle Children's Hospital Major Institutions Master Plan Citizen's Advisory Committee

Section I
List of Recommendations

The following are the recommendations of the Seattle Children's Hospital Major Institutions Program Citizen's Advisory Committee (CAC).

Recommendation 1 - The Final Major Institutions Master Plan for Seattle Children's Hospital should be adopted by the City of Seattle, as modified by the recommendation listed in Section II of this report. This is identified as Alternative 7R

Restatement of Recommendation 4 for the purposes of the introduction

Recommendation 2 - The CAC strongly reinforces the Monitoring and Agency Oversight of Planned Development including the Content of Monitoring Reports and the MIMP Conditions for Master Use Permit (MUP) Awards as outlined on Page 69 of the Final Master Plan with the following additional requirements:

1. For all future development under the MIMP of phases 2, 3 and 4; prior to the issuance of any MUP for any building construction, Children's shall provide documentation to the Standing Advisory Committee (SAC) and the City of Seattle Department of Planning and Development (DPD) clearly demonstrating that the additional construction requested is needed for patient care and directly related supporting uses by Children's, including administrative support;
2. No portion of any buildings on the Laurelhurst Campus or the Hartmann Building shall be rented, or leased to third parties that are not providing pediatric medical care or directly related supporting uses for all space occupied in the building. Exceptions may be allowed for commercial use consistent with underlying zoning at the pedestrian street level along Sand Point Way and within the campus buildings where commercial/retail services are needed/ warranted that serve the broader public; and,
3. Any changes to the conditions listed above by Children's shall be considered a major amendment to the Master Plan.

Approved: 15 in favor, 0 opposed, 0 abstaining

Recommendation 3 - That the Floor Area Ratio (FAR) for the Seattle Children's Hospital be limited to a maximum of 1.5 for both the Main Campus and the Hartmann Site.

Approved: 13 in favor, 1 opposed, 1 abstaining

Recommendation 4 - That Alternative 7R be the platform upon which the final approved Master Plan is based.

Approved: 13 in favor, 1 opposed, 1 abstaining

Recommendation 5 - That the Expansion of the MIO Boundary to incorporate the Hartmann Site should be approved.

Approved: 9 in favor, 6 opposed, 0 abstaining

Recommendation 6- That extension of the MIO boundary to incorporate the Hartmann Site be conditioned as follows:

1. That all of the sequoia trees in the existing grove on the Hartmann Site be retained to the extent that they are healthy;
2. That in partnership with Seattle Children's, Seattle Department of Parks and Recreation, the Hawthorne Hills neighborhood and the Ravenna Bryant neighborhood, a connection between Sand Point Way and the Burke Gilman Trail be provided on the property;
3. That expanded setbacks, as described in the attached Figure I;
4. That a landscape/green screen be provided at the north, south and west edge of the site and that neighborhood input and review be sought during its design;
5. That Sand Point Way frontage streetscape and amenities be provided;
6. That the lot coverage be limited as described in the Draft Hartmann Chart. (55%);
7. That the height of the west façade of the building be no higher than the average grade of the Burke Gilman trail within 60 feet of the west property line;
8. That a 40-foot setback be included along the north margin of the property, provided that such a setback may include pedestrian, bicycle and non-motorized vehicle access to the Burke Gilman Trail; and,
9. That the mechanical hat (penthouse) at the Hartmann Building be restricted to no more than 25% of the roof area and that it be shifted east toward Sand Point Way as far as reasonable.

All items except #8 Approved: 13 in favor, 2 opposed, 0 abstaining. Item #8 approved: 9 in favor, 6 opposed, 0 abstaining

Recommendation 7 – The heights shown in the Final Master Plan (Designated as Alternative 7R) should be approved with the following major revisions:

1. The inclusion of a MIO 50 along the west side of the main hospital campus along 40th Avenue NE extending from NE 45th extending from NE 45th to Sand Point Way NE a minimum of 80 feet in width;
2. The inclusion of a MIO 50 along Sand Point Way NE from 40th Avenue NE to NE 50th Street a minimum of 30 feet in width;
3. The reduction of the MIO 160 conditioned to 140 that is shown on Figure 46 on page 65 of the Final Master Plan to cover only that area required to accommodate Phase 1 development and defined as that portion of the MIO 160 conditioned to 140 located north of an east /west line lying 350 feet north of the current south property line of the Children's campus;
4. The further conditioning of that portion of the MIO 160 shown on Figure 46 on page 65 of the Final Master Plan south of an east /west line lying approximately 350 feet north of the current south property line of the Children's Campus to a height of no greater than 125 feet as shown on the map below.
5. Limit floors above the podium to no more than five (5) floors for those bed towers running east and west and no more than six (6) floors for those bed towers running north and south
6. Limit and screen rooftop mechanical equipment areas to the degree practical while still supporting patient care programs with an upper limit of 30% roof coverage,
7. Establish an MIO of 65 for the Hartmann Site with setbacks as previously recommended by the CAC

Approved: 12 in favor, 3 opposed, 0 abstaining

Recommendation 8–The CAC broadly supports the Transportation Management Plan Elements as outlined in the DPD Director's Report and including those elements noted in the bulleted items above and contained CAC Discussion Matrix as item #10, with the following additional provisions:

1. For the life of the Master Plan, Children's will restrict the vehicle entrances shown on NE 45th Street and NE 50th Street to limited service access and emergency access only.
2. Children's will work with the SAC to develop additional pedestrian and bicycle-only perimeter access points as well as designated pedestrian and bike routes through campus in order to allow the public to benefit from the new transit center and Burke-Gilman Trail connections.

Approved: 14 in favor, 1 opposed, 1 abstaining

Recommendation 9 - Vehicle access to the main campus/Laurelon Terrace Condominium Site shall continue to be from Sand Point Way via Penny Drive, and may also include two additional access points:

1) a second on Sand Point Way; and 2) on 40th Avenue NE to serve either the emergency room or general parking garage but not both. If access for the Southwest parking garage is on 40th Avenue NE, it shall be designed so that vehicles entering and exiting the garage travel only on the portion of 40th Avenue NE that is north of the access point (thus avoiding travel on NE 45th Street east of Sand Point Way)

Approved: 8 in favor, 4 opposed, 3 abstaining

Recommendation 10 - The CAC supports Seattle Children's Housing Replacement Plan in the proposed Master Plan with the following additional conditions:

1. Children's will work with the Seattle Office of Housing to establish a binding Memorandum of Agreement (MOA), contingent upon approval of the Master Plan by the Seattle City Council. The MOA for the construction of replacement housing will address the terms required for the replacement housing, including but not limited to: 1) location 2) eligible housing 3) eligible housing developers 3) concurrency 4) payment; 5) affordability 6) minimum number of units, square feet and bedrooms; 7) City approval requirements;
2. Children's obligation to provide replacement housing is not fulfilled until said replacement housing is completed and ready for occupancy;
3. The CAC strongly recommends the specific replacement housing project(s) be identified and the dollars encumbered prior to the date of the issuance of the Certificate of Occupancy for Phase One of the Children's expansion, subject to the provisions of the MOA;
4. To provide for a full range of housing options, the Seattle Office of Housing shall construct an open, fair and competitive bidding process available to for-profit and non-profit housing providers in the awarding of a contract [or contracts] for the development of replacement housing with such housing constructed on one or multiple sites;
5. In aggregate, the replacement housing shall contain at least 136 units of housing and at least as many bedrooms and square feet of housing as are currently contained at the Laurelon Terrace Condominium Site;
6. Eligible replacement housing shall include for-sale or rental housing that is affordable to households earning up to Area Median Income as established by the U.S. Department of Housing and Urban Development guidelines for the Seattle Metropolitan Statistical Area. The CAC strongly prefers the replacement housing be located in NE Seattle, and further strongly prefers it be located as close to Children's as is practical; and,
7. Children's and the Seattle Office of Housing shall endeavor to have identified a site or sites for the replacement housing prior to demolition of the Laurelon Terrace Condominiums.

Approved: 15 in favor, 0 opposed, 0 abstaining

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Recommendation 11- The CAC supports the provision that a minimum of 41% of the total campus area at build out, as provided for in the Final Master Plan, and including the Hartmann Site shall be maintained as designated open space with the following conditions:

1. To the extent feasible, the open space should be provided in locations at ground level or in other spaces that are accessible to the general public.
2. No more that 20% of the designated 41% open space, or 8% total, shall be provided in rooftop open spaces.

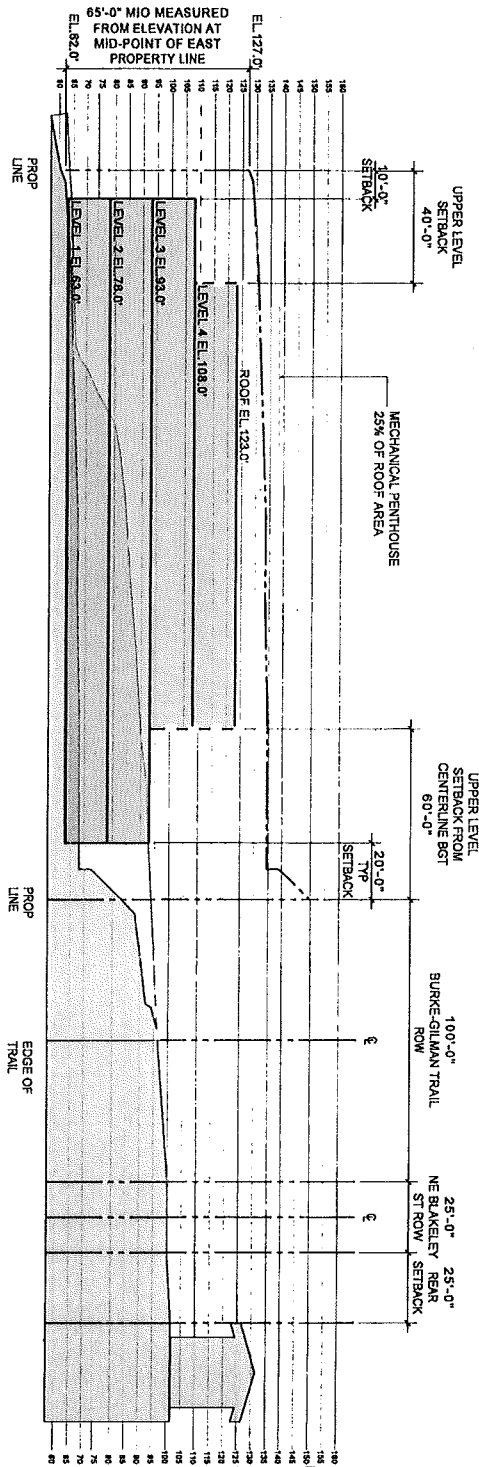
Approved: 12 in favor, 0 opposed, 1 abstaining 2 absent

Recommendation 12 - That the following conditions be appended to the conditions related to the expansion of the MIO boundaries to the Hartmann Site, and applied to the Laurelhurst Condominium Site and where appropriate to other nearby uses surrounding both the Hartmann Site and the Children's campus:

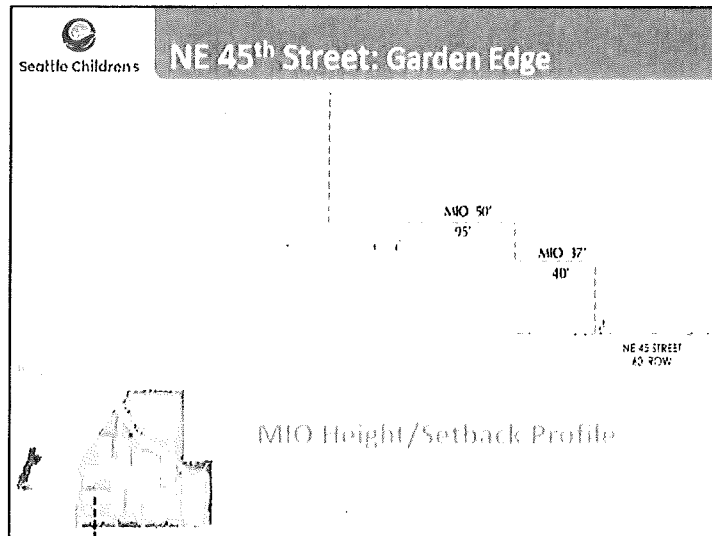
1. The building is to be washed when construction is completed;
2. A system to keep dust from entering through windows and vents be implemented;
3. Building design be done in a way that the noise received in the surrounding community be no greater than present based on a pre-test of ambient noise levels conducted by Children's;
4. Traffic signal be in place at 40th NE before Phase I start;
5. Annual noise monitoring be conducted by Children's;
6. Methods to reduce light and glare light pollution should be used at the Hartman Site
7. Legal assurances that the water table will not be changed to the detriment of the Laurelhurst Condominiums; and,
8. Assurance that construction workers will be precluded from using the Laurelhurst Condominium parking areas adjacent to the Hartmann Site.

Approved: 14 in favor, 1 opposed,

SECTION @ HARTMANN SHOWING MIO HEIGHT ENVELOPE & SETBACKS



Response Attachment B
(Ex. 8, Fig. II, at 20)



This section shows the 40' buffer setbacks as well as MIO height designations for a portion of NE 45th Street. Note landscaped terrace on top of structured parking.

Response Attachment C
(Ex. 28, Slide 28)

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CERTIFICATE OF SERVICE

I certify that on the 21 day of September, 2009, I sent copies of the following documents:

1. Seattle Children's Response to Appeals
2. Certificate of Service

To the following parties by email, at the email address listed below for that party:

- | | | | |
|----|--|----|--|
| 1. | <u>John v. Fox & Bill Kirlin - Seattle</u>
<u>Displacement Coalition/Interfaith</u>
<u>Taskforce on Homelessness</u>
Party Name | at | <u>jvf4199@zipcon.net</u>
email address |
| 2. | <u>Catherine J. Hennings – Member of</u>
<u>CAC/Laurelhurst Residence</u>
Party Name | at | <u>cjhennings@gmail.com</u>
email address |
| 3. | <u>Rick Barrett – Seattle Community</u>
<u>Council Federation</u>
Party Name | at | <u>rickbarrett@gmail.com</u>
email address |
| 4. | <u>Judith Barbour – City of Seattle</u>
Party Name | at | <u>judy.barbour@seattle.gov</u>
email address |
| 5. | <u>Dixie and Steve Wilson</u>
Party Name | at | <u>pbuck@bucklawgroup.com</u>
email address |
| 6. | <u>Peter Buck – Laurelon Terrace</u>
Party Name | at | <u>pbuck@bucklawgroup.com</u>
email address |

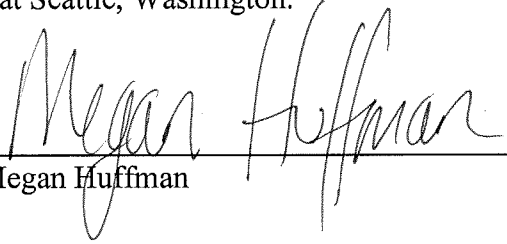
ORIGINAL

And to the following parties by first class mail, by depositing the copies in the U.S. mail by 5:00 p.m., with proper postage affixed, at the post office address listed below.

- | | |
|--|---|
| 1. <u>Thomas Walsh & Judy Runstad -</u>
<u>Coalition of Major Institutions</u>
Party Name | 2. <u>Steve Ross – Chair, Friends of</u>
<u>Children’s Hospital & Resident of</u>
<u>Laurelhurst Neighborhood</u>
Party Name |
| <u>Foster Pepper PLLC</u>
<u>1111 Third Avenue, Suite 3400</u>
<u>Seattle, WA 98101</u>
Mailing address | <u>3625 – 47th Avenue NE</u>
<u>Seattle, WA 98105</u>
Mailing address |
| 3. <u>Bonnie Miller – Hawthorne Hills</u>
<u>Community Council</u>
Party Name | 4. <u>Peter J. Eglick & Jane S. Kiker -</u>
<u>Laurelhurst Community Club</u>
Party Name |
| <u>6057 Ann Arbor Avenue NE</u>
<u>Seattle, WA 98115-7618</u>
Mailing address | <u>Eglick Kiker Whited</u>
<u>1000 Second Avenue, Suite 3130</u>
<u>Seattle, WA 98104</u>
Mailing address |

I certify that under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 21 day of September, 2009, at Seattle, Washington.



Megan Huffman